

# Federal Employees Retirement System (FERS) Offset – An Overview for Agency Personnel

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### **Bottom Line Up Front**

- Provide information regarding how receipt of Social Security benefits for FERS employees (in certain situations based upon age) in receipt of Workers' Compensation wage-loss benefits constitutes 'dual benefits' contrary to 5 USC 8116.
- While providing the case work regarding potential FERS Offset cases is assigned to the Injury Compensation Management Advisors (DCPAS MA) formerly known as Liaisons, understanding how this process works is an important aspect that will allow the Injury Compensation Program Administrator (ICPA)/Injury Compensation Specialist (ICS) to be better prepared to perform their job in a more efficient manner.
- Successful completion of a FERS Offset situation will result in a dollarsavings for DoD agencies when such offsets are finally put into place.



#### **Agenda**

- FERS Retirement Program and Social Security Administration (SSA) benefits
- How to recognize potential FERS/SSA dual benefits in a claim
- Understanding the Offset of SSA benefits "attributable to Federal Service"
- How the ICPA can follow the progress of a FERS Offset case
- Requests to and actions by the Department of Labor (DOL)
- How to tell if the DOL has a FERS Offset is in place
- Sample letters/forms from DOL



#### **FERS Retirement Program and Social Security**

- FERS was a mandatory replacement of the Civil Service Retirement System (CSRS) in 1987. CSRS employees at the time had the option to switch. The FERS benefit package consists of three basic components:
  - FERS basic benefits paid by the Office of Personnel Management (OPM),
  - The Thrift Savings Plan (TSP), and
  - Social Security (SSA)
- Claimants can elect between Federal Employees' Compensation Act (FECA) benefits and the FERS basic benefits from OPM in the same manner as they elect between FECA benefits and CSRS benefits. However, there is no law preventing the receipt of TSP and FECA benefits at the same time.



#### **FERS Retirement Program and Social Security**

- It is the Social Security Administration (SSA) program which requires the most significant oversight and interaction by the Office of Workers' Compensation Programs (OWCP) in how it deals with retirement benefits.
- FECA benefits have to be adjusted for the FERS portion of SSA benefits.
- The portion of the SSA benefit earned as a Federal employee is part of the FERS retirement package, and the receipt of FECA benefits concurrently with SSA benefits attributable to Federal service is a prohibited dual benefit.



#### **FERS Retirement Program and Social Security**

• 5 USC 8116(d)(2) requires that disability and death benefits paid under the FECA be reduced by the amount of any Social Security (Title II) old age or death benefits paid, that are attributable to the Federal service of the employee.



# How to recognize potential FERS/SSA dual benefits in a claim?

- In disability cases, the possibility of FERS SSA dual benefits exists where:
  - The claimant is at least 62 years old, and
  - The claimant had FERS retirement coverage during any of his or her Federal employment, and
  - The claimant is paid benefits <u>based on age</u> by SSA.
- Claimants between age 62 (or younger) and full retirement age may be eligible for both SSA disability and SSA retirement benefits, based upon age. If they elect disability, there is no FERS Offset applicable. At full retirement age, SSA disability benefits automatically convert to SSA old age retirement benefits, and are therefore subject to the FERS Offset.



# How to recognize potential FERS/SSA dual benefit in a claim

- All SSA retirees at full retirement age or older, who are covered by FERS, are subject to the FERS Offset.
- In death cases, the potential for FERS SSA dual benefits exists where:
  - The deceased employee had FERS retirement coverage during any of his/her Federal employment, and
  - There are dependent children, or
  - There is a spouse who either:
    - 1. has in his/her care a child under the age of 16,
    - 2. is 50 years old and disabled, or
    - 3. is 60 years old.

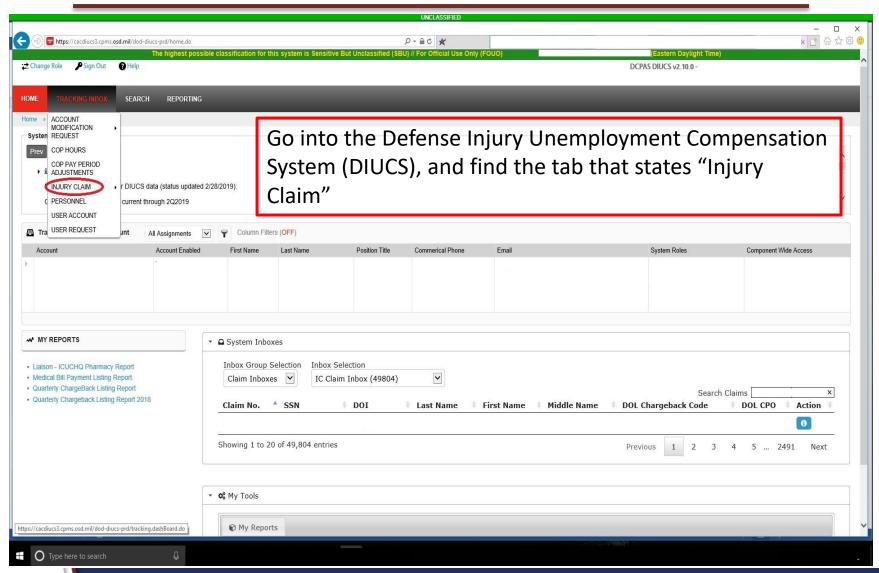


### Understanding the Offset of SSA benefits "attributable to Federal Service"

- Only that portion of SSA benefit "based on Federal Service" is deducted from the FECA.
- Where the claimant has received SSA benefits, OWCP will obtain information from SSA on the amount of the claimant's SSA benefits beginning with the date of eligibility to FECA benefits. SSA will provide the actual amount of SSA benefits received by the claimant/beneficiaries. SSA will also provide a hypothetical SSA benefit computed without the FERS covered earnings, OWCP will then deduct the hypothetical benefit from the actual benefit to determine the amount of benefits which are "attributable to Federal Service." That amount is deducted from the FECA benefit to obtain the amount of compensation payable.

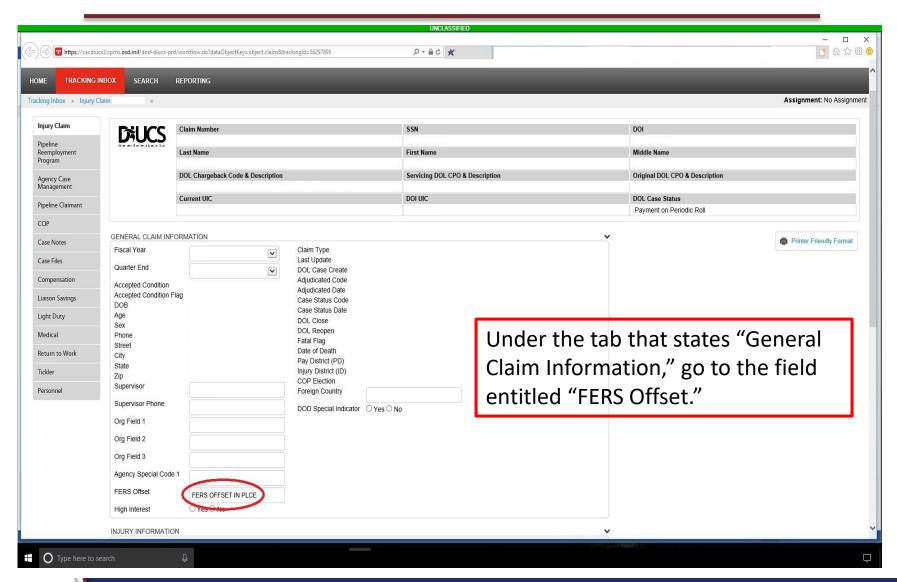


#### How can the ICPA follow the progress of a FERS Offset case





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- In the FERS Offset field, the assigned Management Advisor should have entered "UD FERS" (UD =Under Development) and the effective date, or "FERS Offset in Place" and the effective date, after the claimant has reached age 62. More information regarding this process will be found in the Case Notes.
- If you are certain that the claimant (a) worked under FERS, and (b) is at least 62 years of age, but you find no indication that the aforementioned actions have taken place, please bring this matter to the Management Advisor's attention.



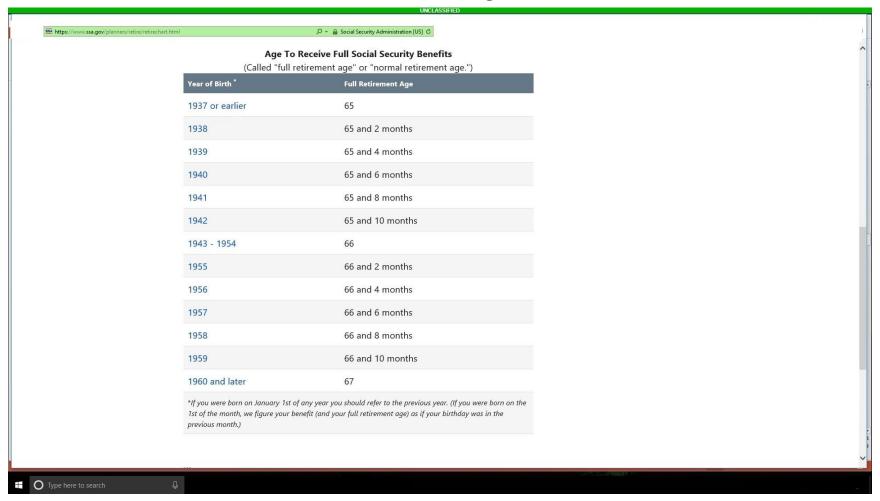
#### How the ICPA can follow the progress of a FERS Offset case

- Often, claimants between the ages of 62 and 66 who are receiving SSA benefits are receiving Disability Benefits from Social Security. Please remember: SOCIAL SECURITY DISABILITY BENEFITS CANNOT BE OFFSET – ONLY OLD AGE RETIREMENT! AND ONLY FOR FERS EMPLOYEES!
- SSA Disability benefits will convert automatically over to Old Age Retirement benefits once the claimant reaches full retirement age with Social Security. Please see the chart on the SSA web site:
- https://www.ssa.gov/planners/retire/retirechart.html



#### How the ICPA can follow the progress of a FERS Offset case

#### SSA Retirement Age Chart





#### Request to DOL for FERS OFFSET case review

- After we verify that a case is under the FERS retirement system and verify no offset is in place, we will notify DOL by placing a memo in DOL case file for FERS Offset review.
- Memo will state:

"Claimant is a FERS employee and has reached minimum retirement age (or he/she was receiving Security benefits that have changed from "disability" to old age retirement) and any Social Security Benefits that he/she is now receiving is considered retirement benefits by the Social Security Administration (SSA). Since this claimant is a FERS employee, his/her compensation payments must now be offset by any part of his/her SSA benefit that was calculated by using Federal employment earnings. Please send a SSA FERS Questionnaire to SSA to inquire as to what the Offset should be, if any."



#### Action by DOL after receipt of our request

- DOL will send a fax transmittal Questionnaire to Social Security Administration (SSA) to verify if the claimant is receiving FERS dual benefits based on Federal government employment.
- If SSA responds and says "No", then we code accordingly in our DIUCS system and monitor until claimant reaches maximum retirement age.
- If SSA responds "Yes", then DOL will review and make the offset deduction from future compensation payments and determine if any overpayment exists (If overpayment exists based upon FERS then DOL should send out a preliminary overpayment decision letter to the claimant advising him/her of this overpayment and giving them 30 days to respond). When DOL starts deducting FERS from Compensation payments they should notify the claimant and agency in writing explaining the same.
- Once we verify an offset is being deducted, we will make notation in our DIUCS system stating "FERS Offset in Place" with the effective date.

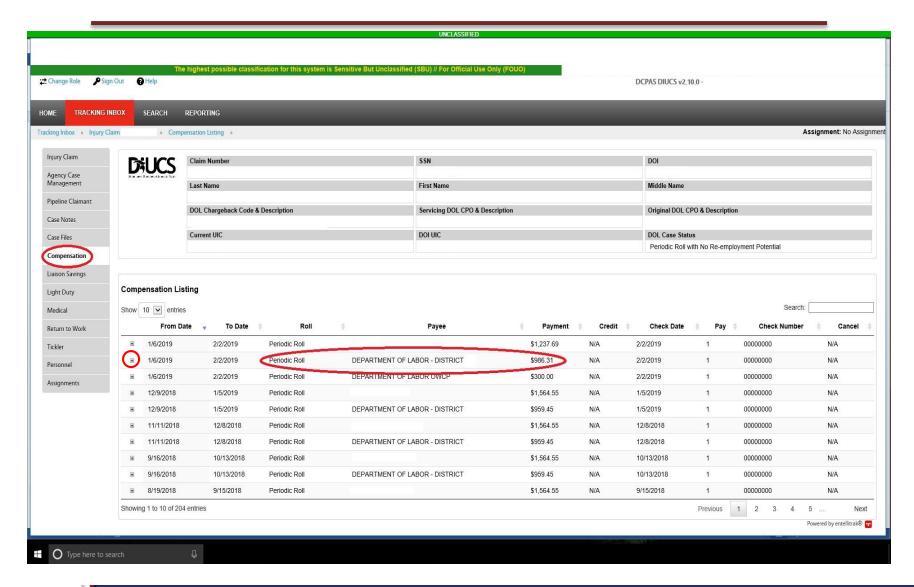


#### How to tell if DOL has a FERS Offset is in place?

- Go into DIUCS. Enter the case file number and pull up the case. Place your mouse over "Tracking Inbox". Click on "Compensation" payments.
- The Compensation Payment screen in DIUCS will show itemized deductions for FERS Offsets. These deductions will be itemized as Relationship Code "FERS Offset".

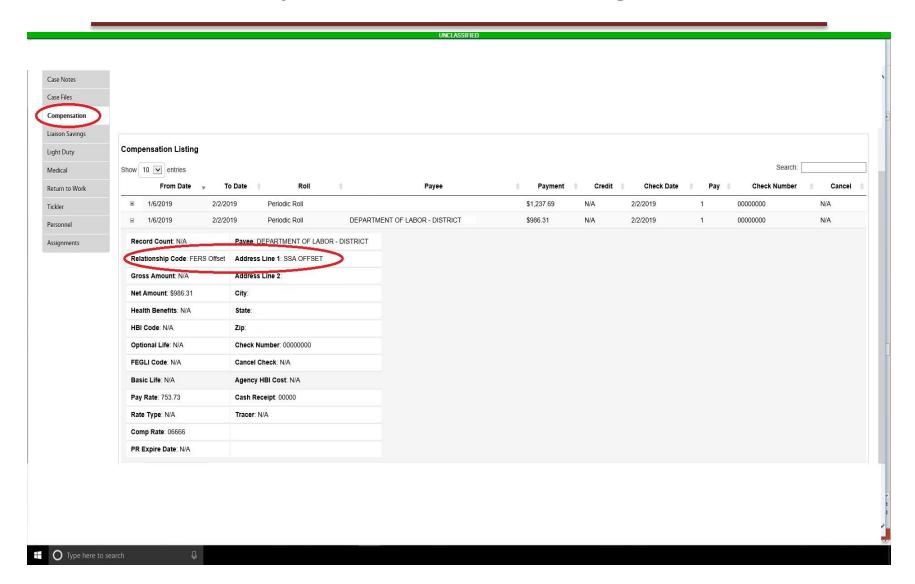


#### **DIUCS Compensation Screen Showing FERS Offset**





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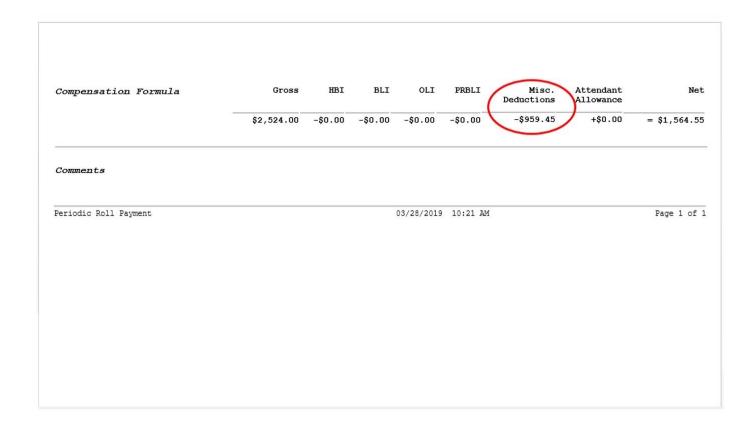


#### How to tell if DOL has a FERS Offset is in place?

The Agency Query System (AQS) also shows similar data, but care must be exercised. 'Drill down' on the latest compensation payment. Look under "Misc. Deductions." If it shows "-0.00," there is no FERS Offset. If there are deductions, you will have to go back to where those deductions first began. That initial deduction may or may not state whether that deduction is for FERS Offset or for some other reason. However, sometimes the "Misc. Deductions" are not well-defined in AQS, and such deductions can be for things other than FERS Offset (i.e., "vision"). The best bet is to use DIUCS.



## **AQS Showing Miscellaneous Deductions**





#### Claiming Savings due to FERS Offset reductions

- Once the FERS Offset has been put into place by the OWCP, the responsibility for putting the savings into place in DIUCS rests with the Management Advisor.
- FERS Offset overpayments can occur when OWCP does not get the offset in place in a timely fashion, immediately after the claimant reaches minimum retirement age for Old Age SSA benefits or full retirement age for SSA disability benefits.



#### **DOL Documents**

# SAMPLE DOL LETTERS/FORMS



## **DOL SSA Age Letter to Injured Employee**

	File Number: SSA(O-E)
U.S. DEPARTMENT OF LABOR	
	OFFICE OF WORKERS' COMPENSATION PROGRAMS PO BOX 8300 DISTRICT LONDON, KY 40742-8300 PHONE:
Month/Day 2019	
	Date of Injury: Employee:
Employee Name Employee Address	
Dear:	
continuing compensation benefits be re Administration (SSA) <u>retirement</u> benefit records indicate that you are approachi	oyees' Compensation Act (FECA) requires that a claimant's educed if he or she begins receiving Social Security ts based upon his or her age and Federal service. Because our ing your 62nd birthday, the minimum age at which an individual nefits, we are notifying you of this requirement.
an overpayment of compensation, which approved for SSA retirement benefits, compensation.	receipt of such retirement benefits to the OWCP could result in the children childre
Sincerely,	
Division of Federal Employees' Compen	sation
CC: Employing Agency	



#### **DOL Transmittal Form**



#### FERS SSA DUAL BENEFIT CALCULATION FAX TRANSMITTAL

US DEPT OF LABOR DFEC CENTRAL MAILROOM P.O. BOX 8300 - DISTRICT 3 PHI LONDON, KY 40742-8300

DATE:						
FROM:		TO:				
OFFICE OF W	ORKERS' COMPENSATION PROGRAMS	SOCIAL SE	SOCIAL SECURITY ADMINISTRATION			
PHONE NUMI	BER: (267) 687-4160					
FAX NUMBER	R: (267) 687-4155	FAX NUMBER: 410-965-4648				
THIS SIDE TO BE COMPLETED BY OWCP		RECOMPUTATION REQUEST: ☐  THIS SIDE TO BE COMPLETED BY SSA				
						Case #:
I.	EMPLOYEE/ANNUITANT	Effective Date	SSA Rate w/ FERS	SSA Rate w/o FERS		
NAME:						
SSN:						
DATE OF BIR	тн:					
FERS \$\$ Period	Computation Date(From – To) (Date FECA Benefits Payable)					
I.	REMARKS:					
Name of Person	n Completing the Form for SSA:					
Date Complete	d:		·			



#### **DOL Letter to Injured Employee**

Employee: Claim # : Date of Injury:

Dear

It has recently been found that you have been receiving Social Security benefits under Title II of the Social Security Act on account of age since . The Social Security Administration has confirmed that a portion of your SSA benefits are attributed to your years of Federal service as an employee under the FERS retirement program. That portion of your SSA benefits attributed to your Federal service requires an offset of your FECA compensation benefits per applicable Federal regulations at 20 C.F.R. 10.421(d):

"Pursuant to 5 U.S.C. 8116(d), a beneficiary may receive compensation under the FECA for either the death or disability of an employee concurrently with benefits under title II of the Social Security Act on account of the age or death of such employee. However, this provision of the FECA also requires OWCP to reduce the amount of any such compensation by the amount of any Social Security Act benefits that are attributable to the Federal service of the employee."

According to the Social Security Administration your current monthly benefit amount is \$ . However, the Social Security Administration has also determined that if your Federal service was not included in your social security computation, you would only be entitled to \$ . Therefore, your Federal service has increased your monthly social security payment by \$ . This difference of \$ is the portion of social security benefit amount attributed to Federal service and is the amount that must be offset against your compensation benefits.

Since social security benefits are paid monthly (12 payments per year), and compensation benefits are paid every 28 days (13 payments per year), the monthly offset amount of \$ must be adjusted to a 28 day payment cycle of \$ . Accordingly, the offset of your compensation payments in the amount of \$ will begin with your payment dated . Your new net compensation payment will be \$ .

Please note the offset amount will increase as you receive the annual increases in your social security benefits.

Sincerely,

Claims Examiner

Enclosure: Computation from SSA



#### **DOL SSA Offset Payment Sheet**

Employment Standards Administration Federal Employees' Compensation System Periodic Roll Payment Run Date: U.S. Department of Labor District Office: PAYMENT REPORT Employee Data Case Number: DOB: Keyed Date: Activity: EXM: Employee: Cert Date: Cert: USPS Employee: 2nd Cert Date: 2nd Cert: Pay Type: Disability Roll Type: Periodic To: Compensation Information Compensation From: Check Date: Weekly Pay Rate: Compensation Rate: Effective Pay Rate Date: Gross Amount: Pay Rate Date Type: Attendant Allowance: Health Benefits HBI Code: Coverage Date: HBI Agency Cost: 0.00 Life Insurance BLI Premium: 0.00 BLI Coverage Date: OLI Code: Coverage Amount: 0.00 OLI Premium: 0.00 OLI Colverage Date: PRBLI Benefits Reduction: PRBLI Premium: PRBLI Coverage Date: Thru Payee Information Relationship: Claimant Address: Bank Routing #: Account #: Account Type: S PRBLI Misc. Attendant CPI Net Compensation Formula Gross HBI BLI OLI Deductions Allowance Adjustment Comments AS PER SSA REPLY, IN IMAGING AS OF 02/15/2018, FECA/FERS OFFSET REQUIRED. FISCAL PAYRATE MEMO SHOWING OFFSET AMOUNT Periodic Roll Payment Page 1 of 1



## **DOL Calculation/Overpayment Sheet**

Case File Numbe	er:							
Claimant Name:								
	SSA Rate	SSA Rate w/o	Monthly FERS	28-Days FERS				
Effective Date	w/FERS	FERS	Offset	Offset	OP Start Date	OP End Date	# of Days	OP Amount
			\$0.00	\$0.00			1	\$0.00
			\$0.00	\$0.00			1	\$0.00
			\$0.00	\$0.00			1	\$0.00
			\$0.00	\$0.00			1	\$0.00
			\$0.00	\$0.00			1	\$0.00
			\$0.00	\$0.00			1	\$0.00
			\$0.00	\$0.00			1	\$0.00
			\$0.00	\$0.00			1	\$0.00
			\$0.00	\$0.00			1	\$0.00
			\$0.00	\$0.00			1	\$0.00
			\$0.00	\$0.00			1	\$0.00
			\$0.00	\$0.00			1	\$0.00
			\$0.00	\$0.00			1	\$0.00
			\$0.00	\$0.00			1	\$0.00
			\$0.00	\$0.00			1	\$0.00
			\$0.00	\$0.00			1	\$0.00
			\$0.00	\$0.00			1	\$0.00
			\$0.00	\$0.00			1	\$0.00
			\$0.00	\$0.00			1	\$0.00
						TOTAL OVER	RPAYMENT =	\$0.00
Completed By:								
Date:								

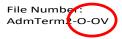


#### **DOL Collection of Debt Letter**

	Collection of Debt PR
U.S. DEPARTMENT OF LABOR	OFFICE OF WORKERS' COMPENSATION PROGRAMS PO BOX 8300 DISTRICT LONDON, KY 40742-8300 PHONE:
Month/Day 2019	Date of Injury: Employee:
Employee Name Employee Address	
Dear:	
This letter is in further reference to the was found in your case.	overpayment of compensation in the amount of \$3235.09 that
•	advised that we will withhold the sum of \$100.00 from your bon review of the file, it has come to our attention that this sum inuing compensation.
\$300.00 from your continuing compens Compensation Act (FECA) provides that	in a reasonable amount of time, we will withhold the sum of sation payments effective 01/06/2019. The Federal Employees' t repayment at 25 percent of the net compensation is tion every 28 days amounts to \$1564.55, \$300.00 is within the
If you have questions, please feel free t	to contact us at the above telephone number.
Sincerely,	
Division of Federal Employees' Comper	nsation
CC: Employing Agency	



#### **DOL Termination of Debt Letter**



Memorandum to the File

Date

CLAIMANT:

FILE NUMBER:

SUBJECT: Administrative Termination of Debt Less than \$200 (FERS Offset)

An overpayment in the amount of \$33.11 has been identified in this case. The overpayment occurred because the offset required in the case was not applied in a timely manner. The claimant is receiving Federal Employees' Retirement System (FERS) benefit from the Social Security Administration (SSA) that is to be offset from their compensation benefits on a "dollar-for-dollar" basis. In December of 201\_SSA applied a 1.7% cost-of-living increase to FERS benefits, so a 1.7% increase should have been applied to the offset of compensation benefits as well. However, the system update in iFECS was unsuccessful, so the increase to the offset was not applied. This resulted in the claimant receiving an overpayment of compensation due to the under-deduction for the FERS Offset. This occurred for exactly one year, for payments made from December 201 through November 201.

It is noted that there was no cost of living increase for FERS benefits in 201\_\_\_, so no increase to the offset is required. However, the December 201\_\_ increase was applied in December 201\_\_ to bring the claimant's current offset up to the correct amount.

The National Office under its own directive calculated and terminated any and all overpayments whereby the FERS offset overpayment was determined to be less than \$200.

Debt collection actions on overpayments of less than \$200 may be administratively terminated at any time after the overpayment has been identified, with no requirement to complete any of the "due process" actions described in Part 6 of the FECA Procedure Manual, if the cost of further collection action would exceed the recovery expected.

This overpayment is less than \$200.00 and did not result from either (1) refund due OWCP as a result of 3rd party settlement, or (2) election of OPM benefits where the debt can be recovered from the retroactive part of annuities held by OPM. Since collection action on the overpayment will exceed the expected recovery; therefore, collection action on the overpayment will be administratively terminated.

Chief, Branch Fiscal Operation



#### References

• FECA Bulletin No 97-09, "Dual Benefits – Deduction from FECA benefits of Social Security Benefits "Attributable to Federal Service" in FERS cases (issued February 3, 1997).

